

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * * * *

JOSEPH ANTONETTI,

Plaintiff,

v.

HOWARD SKOLNIK, *et al.*,

Defendants.

3:10-cv-00158-LRH-WGC

ORDER

Before this Court is the Report and Recommendation of U.S. Magistrate Judge William G. Cobb (#161¹) entered on January 24, 2014, recommending granting in part and denying in part Defendants' Partial Motion to Dismiss and Motion for Partial Summary Judgment (#109) filed on June 24, 2013. Plaintiff filed his Objection to Report and Recommendation of Magistrate Judge (#164) on February 5, 2014, and Defendants filed their Response to Plaintiff's Objection to Court's Report and Recommendation (#166) on February 18, 2014. This action was referred to the Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1) and Local Rule 1B 1-4 of the Rules of Practice of the United States District Court for the District of Nevada.

The Court has conducted its *de novo* review in this case, has fully considered the objections of the Plaintiff, the response of Defendants, the pleadings and memoranda of the parties and other relevant

¹Refers to court's docket number.

1 matters of record pursuant to 28 U.S.C. § 636 (b) (1) (B) and Local Rule IB 3-2. The Court
2 determines that the Magistrate Judge's Report and Recommendation (#161) entered on January 24,
3 2014, should be adopted and accepted.

4 IT IS THEREFORE ORDERED that the Magistrate Judge's Report and Recommendation
5 (#161) entered on January 24, 2014, is adopted and accepted, and Defendants' Partial Motion to
6 Dismiss and Motion for Partial Summary Judgment (#109) is **GRANTED in part and DENIED in**
7 **part** as follows:

8 (1) Defendants' motion to dismiss Count 4 on the basis that Plaintiff failed to exhaust his
9 administrative remedies is **DENIED**; however, the denial is **without prejudice** to permit
10 Defendants to demonstrate that Count 4, or some portion of it, is/are barred by the
11 applicable statute of limitations;

12 (2) Defendants' motion to dismiss the equal protection claims in Count 7 is **GRANTED** and
13 the claim is **DISMISSED without prejudice** as Plaintiff has failed to properly exhaust his
14 administrative remedies;

15 (3) Defendants' motion to dismiss Count 9 on the basis that Plaintiff failed to exhaust his
16 administrative remedies is **DENIED**;

17 (4) Defendants' motion to dismiss Count 13 on the basis that Plaintiff failed to exhaust his
18 administrative remedies is **DENIED**;

19 (5) Defendants' motion to dismiss Count 14 on the basis that Plaintiff failed to exhaust his
20 administrative remedies is **DENIED**;

21 (6) Defendants' motion to dismiss Count 16 for failure to exhaust administrative remedies is
22 **GRANTED** and Count 16 is **DISMISSED without prejudice**;

23 (7) Defendants' motion to dismiss Count 20 for failure to exhaust administrative remedies is
24 **GRANTED** and Count 20 is **DISMISSED without prejudice**;

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1 (8) Defendants' motion for summary judgment as to Count 1 is **DENIED**; and

2 (9) Defendants' motion for summary judgment as to Count 2 is **GRANTED**.

3 IT IS FURTHER ORDERED that the parties shall submit their proposed joint pretrial order
4 pursuant to Local Court Rules 16-3 and 16-4 within thirty (30) days of the entry of this order.

5 IT IS SO ORDERED.

6 DATED this 31st day of March, 2014.

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8 LARRY R. HICKS
9 UNITED STATES DISTRICT JUDGE
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